

Subj: **RE: In re Circuit City**  
Date: 10/15/2009 4:34:23 P.M. Eastern Daylight Time  
From: [dfoley@mcguirewoods.com](mailto:dfoley@mcguirewoods.com)  
To: [RussJ4478@aol.com](mailto:RussJ4478@aol.com)  
CC: [sam.oh@limruger.com](mailto:sam.oh@limruger.com), [JOHNCRAIGG@aol.com](mailto:JOHNCRAIGG@aol.com), [Ian.Fredericks@skadden.com](mailto:Ian.Fredericks@skadden.com)

Russ-

Thanks for your email. We are proceeding on the legal issues only raised in this objection without prejudice to the claimants particular facts and circumstances as applied to any legal rulings the Court may make on Nov.12th. We do not intend to present evidence nor do we intend to engage in discovery before Nov.12th nor do we think it necessary given the relief we are seeking on Nov.12th. We are confident that the Court is comfortable with this process. The Court has proceeded in this fashion in the past and we vetting this approach with him today in Court and he seemed comfortable with it. Any factual issues will be dealt with in a subsequent hearing and pursuant to a scheduling order if necessary. Best regards,

Doug

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**From:** [RussJ4478@aol.com](mailto:RussJ4478@aol.com) [mailto:[RussJ4478@aol.com](mailto:RussJ4478@aol.com)]  
**Sent:** Thursday, October 15, 2009 2:43 PM  
**To:** Foley, Douglas M.  
**Cc:** [RussJ4478@aol.com](mailto:RussJ4478@aol.com); [sam.oh@limruger.com](mailto:sam.oh@limruger.com); [JOHNCRAIGG@aol.com](mailto:JOHNCRAIGG@aol.com)  
**Subject:** In re Circuit City

Doug,

My firm is local counsel for Avertec/Trigem USA, Inc. I am contacting you in response to the 48th Claim Objection (see attached). In the Objection, the Debtors claim, for the first time, to have some claim against my client. Please promptly provide me with whatever documents the Debtors are relying upon to have asserted such a claim in the Objection.

With respect to the request to have the legal argument heard before the facts are known, that sounds like you are seeking a declaratory judgment without filing an adversary proceeding as required by Rule 7001.

If you are unable or unwilling to promptly provide the necessary documents without the need for discovery, please let me know by Monday.

Thank you for your assistance.

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